

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GREGORY L GUERRERO,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of  
Social Security,

Defendant.

CASE NO. C11-5722 RJB

ORDER ADOPTING REPORT AND  
RECOMMENDATION AFFIRMING  
DECISION OF THE SOCIAL  
SECURITY ADMINISTRATION

This matter comes before the Court on the Report and Recommendation of the U.S. Magistrate Judge Karen L. Strombom, recommending that the Court affirm the decision of the Social Security Administration that denied Plaintiff's application for disability insurance benefits. Dkt. 18. The Plaintiff has filed objections to the Report and Recommendation (Dkt. 19), and the Commissioner has filed a reply (Dkt. 20).

The Court must uphold a decision of Defendant based on substantial evidence and free of legal error. *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005); 42 U.S.C. § 405(g). A court may not reverse Defendant's decision for an error that is harmless. *Id.* An error is harmless if

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ADMINISTRATION- 1

1 inconsequential to the determination that a claimant is not disabled, based on the whole record.  
2 *Molina v. Astrue*, 674 F.3d 1104, 1115 (9th Cir. 2012).

3 The Court need only make a de novo determination of the portions of Magistrate Judge  
4 Strombom's Report and Recommendation to which Plaintiff makes objections. 28 U.S.C. §  
5 636(b)(1).

6 Magistrate Judge Strombom found that the ALJ did not err by giving significant weight  
7 to the opinion of examining physician George Mecouch, D.O., that Plaintiff had no more than  
8 mild mental functional limitations that would not interfere with employment. The Magistrate  
9 Judge found that the ALJ permissibly rejected the opinion of treating psychologist Scott Willis,  
10 Ph.D., that Plaintiff would decompensate in a work setting based on Dr. Mecouch's report and  
11 Plaintiff's part-time sales clerk job and volunteer ministry activities. Magistrate Judge  
12 Strombom found that the ALJ committed only harmless error by failing to address the opinions  
13 of examining psychologist Gary Monkarsh, Ph.D. Magistrate Judge Strombom found that Dr.  
14 Monkarsh's first opinion was not relevant to the period at issue because it preceded the date  
15 Plaintiff alleged he became disabled by more than one year. The Magistrate Judge found that the  
16 ALJ likely would have rejected Dr. Monkarsh's second opinion, dated about one month after  
17 Plaintiff alleged he became disabled, for the same reasons the ALJ rejected Dr. Willis's opinion  
18 – because Dr. Mecouch's more recent opinion and Plaintiff's activities of working as a sales  
19 clerk and leading ministries contradict Dr. Monkarsh's opinions that Plaintiff's PTSD prevented  
20 him from performing all work.

21 Magistrate Judge Strombom found that the ALJ committed only harmless error by failing  
22 to address the opinion of examining psychiatrist Robert Bridenbaugh, M.D. Magistrate Judge  
23 Strombom found that Dr. Bridenbaugh clearly did not believe Plaintiff to be completely disabled

1 as Plaintiff alleged, and that Dr. Bridenbaugh's report lacked detail and provided little guidance  
2 for the ALJ in assessing Plaintiff's ability to perform work-related activities.

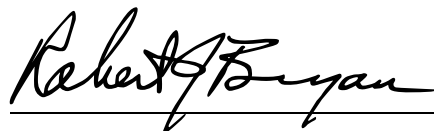
3 Magistrate Judge Strombom found that the ALJ properly found Plaintiff less than fully  
4 credible and did not err by rejecting the disability rating decision of the Department of Veterans  
5 Affairs.

6 Plaintiff objects to Magistrate Judge Strombom's findings that the ALJ committed only  
7 harmless error in rejecting the opinions of Dr. Monkarsh and Dr. Bridenbaugh, and that the ALJ  
8 did not err by rejecting the Veterans Affairs rating decision. In his objections, Plaintiff reiterates  
9 much of the argument that was made in the proceedings before the Magistrate Judge. See Dkt.  
10 15 and 17. The Report and Recommendation analyzed Plaintiff's claims thoroughly and  
11 carefully. The court concurs with the analysis of the Magistrate Judge, for the reasons set forth in  
12 the Report and Recommendation. The harmless error standard applicable to civil cases is  
13 equally applicable to actions under 42 U.S.C. § 405(g). *Molina v. Astrue*, 674 F.3d 1104, 1111  
14 (9th Cir. 2012); *McLeod v. Astrue*, 627 F.3d 1170, 1177 (9th Cir. 2010). The Court need not  
15 separately address Plaintiff's claims since they have been so well analyzed in the Report and  
16 Recommendation.

17 The Court, having reviewed Plaintiff's complaint, the Report and Recommendation of  
18 Judge Karen L. Strombom, United States Magistrate Judge, the objections to the Report and  
19 Recommendation, the Reply, and the remaining record, does hereby find and **ORDER:**

- 20 1. The Court adopts the Report and Recommendation;
- 21 2. The administrative decision is **AFFIRMED**;
- 22 3. The Clerk is directed to send copies of this Order to Plaintiff's counsel,
- 23 Defendant's counsel and Magistrate Judge Karen L. Strombom.

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2 Dated this 20<sup>th</sup> day of August, 2012.

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5 ROBERT J. BRYAN  
6 United States District Judge  
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